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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,164	11/16/2001	John C. Weast	10559-550001/P12570	3532

7590 11/17/2004

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EXAMINER

PERVEEN, REHANA

ART UNIT PAPER NUMBER

2116

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,164

Applicant(s)

WEAST, JOHN C.

Examiner

Rehana Perveen

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-26 and 31-42 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

***Response to Arguments***

Applicant's arguments, filed on 25 October 2004, with respect to the rejection(s) of claim(s) 1-42 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kodama et al, as stated below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3-8, and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Kodama et al, Patent No. 6,624,962.

As to claims 1 and 27, Kodama et al teach receiving a request to perform a write operation to a device (non-volatile storage device 10, col. 7 lines 42-44), determining whether the device is activated or inactivated (col. 7 lines 29-48), accessing the device to perform the requested write operation if the device is determined to be activated (col. 2 lines 40-47, col. 6 lines 33-43), and buffering the write operation to physical memory if the device is determined to be inactivated (col. 2 lines 40-47, col. 6 lines 33-43, and col. 10 lines 19-30).

As to claim 3, Kodama et al teach the device comprises a disk drive, a non-volatile memory component, or a network access device (storage device 10, figure 2, col. 6 lines 1-10).

As to claim 4, Kodama et al teach determining whether the device is powered-up or powered-down (col. 6 lines 1-43).

As to claim 5, Kodama et al teach using an intermediate file system driver to intercept a request bound for a file system driver (col. 7 lines 40-46).

As to claims 6 and 29, Kodama et al teach writing one or more buffered write operations to the device upon an occurrence of a predetermined condition (col. 7 lines 49-62).

As to claim 7, Kodama et al teach predetermined condition comprises detecting that a predetermined amount of time has elapsed (col. 7 lines 9-13), or detecting that a computer system associated with the device is being turned off or put in a stand-by state (power save mode, col. 1 lines 8-15 and col. 6 lines 33-36).

As to claim 8, Kodama et al teach receiving user input relating to one or more predetermined conditions (host command, col. 1 lines 17-30).

As to claim 30, Kodama et al teach information for causing a machine to deactivate non-volatile storage device after writing the one or more buffered write operations (col. 7 lines 16-39).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kodama et al as applied above, in view of DeKoning et al, Patent No. 6,412,045.

DeKoning et al were cited as prior art in the previous office action.

As to claim 28, Kodama et al teach all of the limitations as stated above. However, Kodama et al do not expressly teach determining whether the non-volatile storage device is operating under battery power. DeKoning et al teach determining whether a non-volatile storage device is operating under battery power during write operations to allow caching in the event of power failure (col. 5 line 40 – col. 6 line 11).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Kodama et al and DeKoning et al because both are commonly directed to handling of storage device write operations in consideration of power condition, and DeKoning et al's determination of whether the device is operating under battery power, when incorporated into Kodama et al's system, would have enabled Kodama et al's system to achieve further indication of power condition to allow overall system efficiency.

***Allowable Subject Matter***

Claims 2, 9, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rehana Perveen whose telephone number is 571-272-3676. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Rehana Perveen  
Primary Patent Examiner  
Technology Center 2100